



Town of Southern Shores

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Corrected

Council Meeting
April 20, 2010
8:00 a.m. - Pitts Center

The Southern Shores Town Council met on April 20, 2010 at the Pitts Center.

The following Council Members were present: Mayor Hal Denny, Mayor pro tem Jodi Hess, Council Members Kevin Stroud and Jim Pfizenmayer. Council Member George Kowalski was absent.

Also present were: Chief David Kole, Interim Town Manager, Ben Gallop, Town Attorney and Carrie Gordin, Town Clerk.

Mayor Denny called the meeting to order at 8:00 a.m. and led the Pledge of Allegiance. He acknowledged the absence of Council Member Kowalski who is with his wife, Susan, who is undergoing medical treatments. Mayor Denny asked that they be included in the moment of silence as well as our troops serving around the world.

APPROVAL OF AGENDA

Mayor Denny stated Mayor Oakes of Nags Head is here to answer questions regarding Nags Head's request to increase the occupancy tax (Item V). Mayor Denny moved to amend the agenda to allow Mayor pro tem Hess, the Town's member of the Shoreline Management Commission (SMC), to provide a briefing on the SMC's last meeting. He stated questions may follow and be addressed to Mayor Oakes and Mayor pro tem Hess. He stated Joe Anlauf is not present to give the canal dredge report (Item VI.c.) and he asked that Mayor pro tem Hess provide comments on this issue. Council Member Hess seconded. The motion passed with Mayor Denny, Hess, Stroud, Pfizenmayer voting aye; no Council Member voting no and Council Member Kowalski absent.

GENERAL PUBLIC COMMENT-None

APPROVAL OF MINUTES -March 16, 2010

Council Member Hess moved to approve the March 16, 2010 minutes as presented. Council Member Pfizenmayer seconded. The motion passed with Mayor Denny, Hess, Stroud, Pfizenmayer voting aye; no Council Member voting no and Council Member Kowalski absent.

CONSENT AGENDA-None

PRESENTATION-Mayor Bob Oakes, Town of Nags Head/Mayor pro tem Hess

Council Member Hess reported she submitted the Town's approved position paper regarding its opposition to Nags Head's request to increase the occupancy tax by 1% to the Shoreline Management Commission. She stated Southern Shores is the only town opposing the tax increase request. She stated County Commissioner Chairman Judge is recommending approval with a 50% match for the distribution of funds but the County Commissioners have not approved anything at this time. She stated Kitty Hawk is okay with the additional tax especially since the builders and real estate survey supports it. She stated Duck submitted a letter unanimously supporting the increase but they feel planning is needed on a county-wide basis. She stated Kill Devil Hills already has a project in place and is working on getting Federal funds. They also submitted a resolution supporting the increase request which included definition of uses for beach nourishment. The Shoreline Management Commission wants to draft a resolution. But based on the Town's position paper, she would have voted no. She was asked the question how pumping sand on the beach is different from taking sand from the canals, which is what the Town dredging project is doing. Upon consideration she is now recommending the Town support the tax increase request; she stated Southern Shores is the only town not supporting the request and she asked what if the town needed help sometime. The Shoreline Management Commission is meeting again on Thursday, April 22. She will provide Council with information she receives from that meeting. A clarification needs to be made in that the funds would not go to the homeowners. The damaged homes have been declared nuisances and the funds would go to remove the house.

Council Member Pfizenmayer stated as before we all should work together and we may need help at some time. He supports the tax increase request.

Mayor Oakes stated that everyone will potentially be facing expenses due to erosion. He stated Nags Head is trying to secure funds to deal with the erosion issue.

Council Member Stroud stated he is concerned that one town (Nags Head) could deplete the funds and he does not support that. He doesn't support funding beach nourishment at the cost of the locals. He stated the only way he would support it is that language be included to place a cap on the amount of distribution of funds.

Council Member Hess stated discussion has been held on this with a consideration that 5-10 million dollars would remain in the fund for emergencies. At this time all that is being asked is that the towns support the County in requesting a 1% occupancy tax increase to the legislators.

Mayor Denny asked Mayor Oakes if Nags Head has a Plan B if the tax increase is not approved. Mayor Oakes stated this is an expensive issue. He stated Nags Head decided to pay \$7500 to remove a house instead of paying legal fees to take action against the property owner to remove the house. He stated Nags Head will be removing debris from the beach.

Council Member Stroud stated he thinks the County should have a distribution plan in place first before the towns vote on an occupancy tax increase.

Mayor Denny stated initially he was against the request but he now supports the request. He stated he sees no clear alternative.

Mayor Denny moved to rescind the Council's denial of the 1% Occupancy Tax increase. Council Member Hess seconded. The motion passed with Mayor Denny, Hess and Pfizenmayer voting aye; Council Member Stroud not voting, no Council Member voting no and Council Member Kowalski absent. (Motion passed 4 to 0).

REPORTS

Build the Bridge-Preserve Our Roads (BBPR) Committee

Robert Palombo provided a Power Point presentation on the draft environmental impact study completed by the NC Transportation Toll Authority on the construction of the Mid-Currituck Bridge. The Committee, consisting of Mr. Palombo, Gerrie Sullivan and Bill Cogger from Southern Shores, recommends that Council support alternative MCB4 which provides for the least impact in Town. The Committee asked Council to send a letter or resolution supporting alternative MCB4 and that Council attends the upcoming public hearing and voice their support. He stated the Committee will provide Council with talking points for attendance at the hearing on May 18 at the Ramada Inn in Kill Devil Hills with an open house 3:30-6:30 p.m., public hearing 7:00 p.m. There will be two additional hearings held on the Currituck Mainland, May 19 and Currituck Outer Banks, May 20.

Mayor Denny asked Mr. Palombo to draft a resolution. Mr. Palombo said he would.

Mayor Denny thanked everyone for their time.

[Clerk's Note: A copy of the Power Point presentation can be found on the Town's website].

Canal Maintenance Dredging Project

Council Member Hess reported the contractor is working with certain property owners on securing a spoil site.

The Town Attorney stated the contractor's attorney contacted him to discuss a request made by the property owners asking that the Town agree to not exercise its power of eminent domain to their property. The Town Attorney stated a current Council can not bind a future Council to an agreement. He stated he has prepared a resolution basically stating the current Council at this current time has no intention of exercising its power of eminent domain to acquire any interest in their property.

Mayor Denny moved to approve Resolution 2010-04-01 as presented. Council Member Hess seconded. The motion passed with Mayor Denny, Hess, Stroud, Pfizenmayer voting aye; no Council Member voting no and Council Member Kowalski absent.

[Clerk's Note: A copy of Resolution 2010-04-01 is hereby attached as Exhibit A].

Town Manager Selection Process

Webb Fuller, Consultant, reported the application process has closed and over 150 applications were received. He stated the applications are available for Council review in Town Hall. He stated following his review of the applications he will have 10-15 good candidates. He will then provide 6 candidates for Council interviews. He asked that Council commit to the first week of May for the interviewing process. He stated proper public notice for a special meeting will be needed with Council to go into closed session. He recommends a three-day process to give the candidates and Council ample time for interviewing. Interviews will be held in the Pitts Center but an alternate site will be needed on May 4 due to elections being held there. The Aycock Brown Visitor's Center will be contacted to be used as the alternate site.

OLD BUSINESS

Draft Ordinance-Town Code-Chapter 34-Beach and Waterway Usage

Wes Haskett, Planner, stated this issue was discussed during the Council Retreat. This draft ordinance is similar to the Town of Duck's ordinance and our Ocean Rescue service supports it. He stated staff and our Ocean Rescue director have reviewed the ordinance. The plan is to educate the people on these changes before any enforcement is put into effect. Enforcement will be done by life guard personnel with secondary enforcement by the police department.

Mirek Dabrowski, Surf Rescue contractor, recommends educating the public for the first year. He stated the Town of Duck provides beach goers with Frisbee's printed with the basic rules and items left on the beach are tagged with a warning. The most dangerous issue is leaving holes on the beach open. The holes are filled but some do need to be filled mechanically. He stated his life guards are on the beach until 8 p.m.

Chief Kole stated a two-year educational program is not unreasonable and the issuance of tickets will be similar to the Town parking ticket. He stated the Community Resource Officer will be responsible for alerting the public.

Mayor Denny moved to adopt Ordinance 2010-04-01-Town Code-Chapter 34-Beach and Waterway Usage as presented. Council Member Hess seconded. The motion passed with Mayor Denny, Hess, Stroud, Pfizenmayer voting aye; no Council Member voting no and Council Member Kowalski absent.

[Clerk's Note: A copy of Ordinance 2010-04-01 is hereby attached as Exhibit B].

Southern Shores Volunteer Fire Department Budget (SSVFD)

Mayor Denny stated he invited Webb Fuller to give a brief update on the negotiations with the SSVFD on next year's budget. At the last meeting Council directed the Town Manager to include 2.75 cents in the Town's budget for the fire department operations. He stated negotiations are still on-going on the purchase of the 800MHz radios.

Webb Fuller stated Mayor Denny provided a list of recommendations to Council at the last meeting. The current fire department contract allows for a flat rate of two cents for the coming year but does allow them to request additional funds. The fire department is requesting three cents. Fire department expenses have gone up and the 2.75 cents is a thirty-three percent increase over the amount the Town has been paying. In addition, the fire department is requesting forty-eight radios, Model 5000 series, but the Model 2500 series is adequate and the number of radios requested is an issue being discussed.

Council Member Pfizenmayer stated it took several months to negotiate a ten-year contract and it is time to figure out how the fire department can become part of the town not an independent corporation. He doesn't support the way we are currently doing this.

Webb Fuller stated the structure in place is fine and contract negotiations are being addressed. The 2.75 cents, if approved will become the new base and can not go down. Radio funding is a separate issue. Mayor Denny stated now is not the time to discuss the organization of the fire department. It can be placed on an agenda for debate at a later time. He stated Council needs to deal with the budget and getting a new Town Manager.

Mayor Denny thanked Webb Fuller and Chief Harvey.

Chief Harvey asked what the next step is on the radios. He stated there is discussion but there's no progress. He stated Council needs to make a decision.

Mayor Denny stated Webb Fuller and the Town Manager will come up with a budget decision. He commented a third party might help move this ahead.

Procedure for Filling a Council Member Vacancy

Mayor Denny stated at the last Council meeting he reported that he received a phone call from the office of Representative Spear asking for a resolution from Council to go before the legislators regarding a change on the procedure for filling a Council Member vacancy. He stated the previous Council sent a letter in 2009 to Representative Spear addressing this issue.

Mayor Denny read a document prepared by him to clarify the events resulting from that initial phone call from Rep. Spear's office. Following these remarks Mayor Denny stated it was apparent that communications was held between Don Smith and Rep. Spear and that communication was held by other Council Members and not shared. He holds this as an affront. He stated he did not initiate any contact with Rep. Spear's on this or talked to him directly on this until he attended the legislative breakfast on Monday April 19. At that time Rep. Spear stated he would do whatever this Council wanted.

[Clerk's Note: A copy of the remarks is hereby attached as Exhibit C].

Council Member Pfizenmayer stated he initiated this and he asked the Town Attorney why this was not followed through when last year Council approved unanimously that this be sent to Rep. Spear to be placed on the legislative short session. He stated he doesn't think Mayor Denny has the right to say that there are other Council Members who oppose this. He stated he has a copy of the act dated February 8, 2006 requesting the Town charter be revised. He thinks this is all that is required to change the charter. He still thinks an investigation is needed to see why it was stopped. He thinks it should be sent to Rep. Spear and put on the short session in May. He read a portion of an email from Rep. Spear stating "Mr. Denny, Mayor of Southern Shores, advised my (Spear) office on 3/16/2010 that the current council had no intentions of passing a resolution seeking introduction of legislation or pursuing any effort to change the Town's charter during this legislative short session". Council Member Pfizenmayer stated this Council has never discussed this issue and he thinks the statement is wrong.

Mayor Denny stated when he spoke to the young lady who called him; he told her that this Council would not adopt a resolution to support this matter without it becoming controversial.

Council Member Stroud stated that three members were sitting on the Council that adopted the act are sitting here now. He moved to adopt the act as a resolution, as it reads, and send it on to Representative Spear. Council Member Pfizenmayer seconded.

Council Member Hess stated this was approved originally in 2006 and nothing was done with it. She stated then in August 2009 Don (Mayor Smith) brought it to Council since the election was coming up on election time. She stated in the minutes from that meeting she brought up that Council should wait for the new Council, following the election results because, a previous Council can't tell a new Council what to do. She stated it wasn't carried through because there would possibly be a new Council. She stated Mayor Denny was trying to put it on the agenda at the last meeting for Council discussion. She stated Council Member Stroud had some issues on the presented act as well as she at the time it was voted on and she still has some concerns. The proper thing to do was for Council Members Stroud and/or Pfizenmayer to bring it up in March and put it on the agenda instead of going behind the scenes.

Now we don't have the same Council and we have no Town Manager. She stated in Rep. Spear's email it says the issue can't be controversial.

Council Member Stroud asked if one negative vote is considered controversial. He also asked does Mrs. Halacy have a copy of the act previously approved by Council in 2006. Mayor Denny stated he did not ask her.

Council Member Hess stated in the minutes it reads a resolution is needed and it was stated to wait until March.

Council Member Pfizenmayer stated the town citizens should have the right to vote for the Council. Council Member Stroud agreed.

Council Member Hess stated her concern is Council would be without a Council Member for a three-month period until an election was held. She stated there is no provision for Council to appoint someone.

Mayor Denny stated he was present during the meeting when former Mayor Smith presented this and his reason given to change the process was to keep the "good ole boy" network from continuing. Mayor Denny stated this is a weak premise for making a change.

The Town Attorney explained a Council Member could not be appointed by the Council if a Mayor vacancy would occur. He stated the Mayor pro tem would preside over meetings but Council would be short a member.

Council Member Stroud stated he voted originally on the act and still stands by it now. He favors a special election rather than having Council appointing someone to fill a vacancy.

The motion was repeated by Council Member Stroud to adopt the act as a resolution and send it on to the legislators to be submitted for the short session. Mayor Denny called for the vote. The motion failed with Mayor Denny and Council Member Hess voting no, Council Members Stroud and Pfizenmayer voting aye and Council Member Kowalski absent.

Council Member Pfizenmayer wants this item to be placed back on the agenda for discussion and he wants an investigation done to see where we are. He stated if a vacancy occurs it should not be filled until this is resolved.

Mayor Denny stated discussion can continue on this but to no avail.

NEW BUSINESS

Computer System Upgrade Proposals and Budget Amendment #17

The Interim Town Manager stated multiple assessments have been provided on the Town's computer system. It is time to upgrade the system for basic security as well as off-site backup. He recommends Council approve the proposal from Shoshin Technologies and to approve Budget Amendment #17 in the amount of \$20,000. He stated there is \$17,000 currently in the budget. The upgrade includes a new email system under the Town's control and new server for service Town Hall and the Police Department.

Council Member Hess moved to authorize the Town Manager to proceed with the contract with Shoshin Technologies. Council Member Pfizenmayer seconded. The motion passed with Mayor Denny, Hess, Stroud, Pfizenmayer voting aye; no Council Member voting no and Council Member Kowalski absent.

Council Member Hess moved to approve Budget Amendment #17 as presented. Council Member Pfizenmayer seconded. The motion passed with Mayor Denny, Hess, Stroud, Pfizenmayer voting aye; no Council Member voting no and Council Member Kowalski absent.

[Clerk's Note: A copy of Budget Amendment #17 is hereby attached as Exhibit D].

Surf Rescue Amended Contract

Mayor Denny stated discussion was held at the Council retreat to extend the ocean rescue services contract time line in May and in October.

Mirek Dabrowski, ocean rescue contractor, confirmed the additional manpower and equipment at a cost of \$15,000.

Mayor Denny moved to authorize the Town Manager to execute the amended contract with Sandski Surf Rescue for the period of 2010-2014. Council Member Hess seconded. The motion passed with Mayor Denny, Hess, Stroud, Pfizenmayer voting aye; no Council Member voting no and Council Member Kowalski absent.

Town Safety Plan

David Bakken, Town Safety Coordinator and Fire Inspector, stated a representative from the NC League of Municipalities met with him to discuss the preparation of a Town safety plan. He presented the plan and asked for Council's approval. He stated the safety coordinator is appointed by the Town Manager and the committee consists of representation from the police dept., public works, code enforcement and administration.

Council Member Hess suggested the names or departments of the committees are included in the plan.

Police Chief Kole stated the police and public works departments have stand-alone safety plans also.

The Safety Coordinator stated each department will have stand-alone safety guidelines as well. The Town Manager recommended the new Town Manager review the plan.

Council referred the plan back to the committee for further clarification.

OTHER ITEMS

Town Manager

The Town Manager provided a schedule for the FY 2010-2011 Budget. He recommended May 10, 2010 for the Budget Workshop with May 12 as a second date if needed. The Town Manager plans to present his proposed budget at the May 18 regular workshop and ask for a budget hearing for June 1. Council will adopt the budget on June 15 or a later date (special meeting) if needed but before June 30.

The Town Manager stated in talking with the editor of the Coastland Times they are not requesting public records.

Town Attorney

The Town Attorney stated if he or John Leidy is needed for any special meetings to let them know so they check their schedules.

Mayor-None

Council

Council Member Pfizenmayer requested the Council vacancy and the fire district and fire department issues be placed on the upcoming agenda.

Mayor Denny responded by saying with all that's on Council's plate, this is not the time to discuss the fire department becoming a part of the Town. He suggested this be deferred to a later time.

Council Member Pfizenmayer stated we can't just keep putting things off and at the next meeting some guidelines could be set to get started. He stated even with a ten-year contract discussion is still needed.

Mayor Denny stated Council resolved the fire district question at the last meeting.

Council Member Hess suggested this issue be placed on the July Council agenda. Council agreed.

Mayor Denny suggested taking the opportunity to research fire departments being a part of a town around the country and having something prepared to discuss at the July meeting.

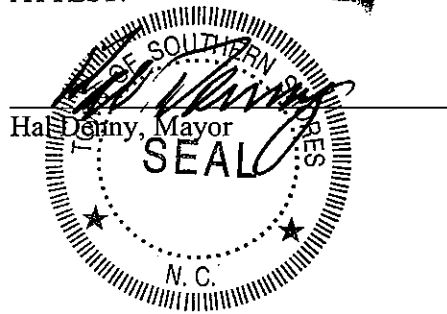
PUBLIC COMMENT

David Sanders, 158 Beech Tree Trail, commented that if someone would look back through the records you will find that previous to the last Council, another Council unanimously voted on the process of replacing Council Members and shot it down. He stated he is confused and disappointed on Council's animosity toward the fire department. He would think the battle should be over and the talk of the dissolution and seizure of corporate assets and diminishing the role of fire and rescue volunteers. He feels these issues should be put behind as well as the contentiousness of the last four years. He stated he agrees with Council Member Pfizenmayer that too much time and resources have been spent fighting with an organization when in the past Councils have given praise, thanked and showered the fire department with accolades. It is the cheapest one on the beach. He stated currently discussion is being held on a quarter difference in their budget request and the cost of the radios. He stated on the radios over a ten-year period the Town has mishandled it; even when he was on Council. He stated no budget adjustments were made for the radios and now we have less than a year to prepare for a large expense with no money set aside. He stated the quarter is the tax rate difference between what the fire department is asking and the town is offering which is around \$50,000. He stated the town paid approximately \$50,000 in attorney fees getting the ten-year contract. He stated that wasn't the first time but in the past the process of getting a contract was discussed at a workshop with a hand shake and signatures on a contract. He stated he thinks and would hope that everyone would think that as stewards of tax money it would be better spent on services than on legal fees. Look at what the fire department does and what they continue to do and how they do it. He asked Council to spend the money on services rather than on other means.

Lori Williams, 109 Pudding Pan Lane, suggested to the Town Manager to get it in writing that the request for public records is no longer needed. She also suggested the Town contact the other towns to request their support on the Mid-Currituck Bridge alternative Southern Shores is supporting.

Hearing no other business Mayor Denny moved to adjourn at 9:35 a.m. Council Member Hess seconded. The motion passed with Mayor Denny, Hess, Stroud, Pfizenmayer voting aye; no Council Member voting no and Council Member and Kowalski absent.

ATTEST:



Respectfully submitted:


Carrie Gordin, Town Clerk

Exhibit A

**RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF SOUTHERN SHORES,
NORTH CAROLINA REGARDING THE USE OF EMINENT DOMAIN TO
ACQUIRE CERTAIN PROPERTIES**

(Resolution #2010-04-01)

WHEREAS, the Town Council of the Town of Southern Shores is engaged in a project to have the Town's canals dredged (the "Canal Dredging Project"); and

WHEREAS, the Town and/or its potential contractor for the Canal Dredging Project may need to use the following properties to dewater dredge spoils associated with the Canal Dredging project:

279 Hillcrest Drive;
283 Hillcrest Drive; and

WHEREAS, the owners of the above-referenced properties have indicated to the Town's potential contractor that the properties may only be used if the Town agrees not to acquire the properties in the future through the use of its power of eminent domain; and

WHEREAS, the Town cannot formally bind itself regarding its future use of its eminent domain power, but the current Town Council desires to express to the property owners of the above-referenced properties that the Town currently has no intention of exercising its power of eminent domain to acquire any interest in their property.

NOW, THEREFORE BE IT RESOLVED, the Town Council resolves that it currently has no intention of exercising its power of eminent domain to acquire any interest in either of the above-referenced properties.

Adopted this 20th day of April, 2010.

Hal Denny, Mayor

Attest:

Carrie Gordin, Town Clerk

**BEACH AND WATERWAY USAGE ORDINANCE
AMENDING THE TOWN CODE
OF THE TOWN OF SOUTHERN SHORES**

ARTICLE I. Purpose(s) and Authority.

WHEREAS, the Town of Southern Shores (the "Town") may enact and amend ordinances to protect the health, safety, and welfare of its citizens under North Carolina General Statutes § 160A-174; and

WHEREAS, the Town Council for the Town of Southern Shores (the "Town Council") finds that it is necessary to regulate certain activities upon the ocean beaches of the Town to ensure the public enjoyment and safe recreation upon the public beaches; and

WHEREAS, the Town Council further finds that it is necessary to regulate certain activities upon the primary and frontal dune areas of the Town which degrade the ability of the these systems to protect real property from the detrimental effects of the Atlantic Ocean; and

WHEREAS, the Town Council finds that it is in the interest of the public's health, safety, morals and general welfare that the Town Code be amended as stated below.

ARTICLE II. Construction.

For purposes of this Ordinance, underlined words (underline) shall be considered as additions to existing Town Code language and strikethrough words (~~strikethrough~~) shall be considered deletions to existing language. Any portions of the adopted Town Code which are not repeated herein, but are instead replaced by a "..." shall remain as they currently exist within the Town Code.

ARTICLE III. Town Code.

NOW, THEREFORE, BE IT ORDAINED by the Town Council that the Town's Code of Ordinances shall be amended as follows:

PART I. That Chapter 34, Article III, Section 34-55 be added as follows:

Sec. 34-55. Beach and Dune Management.

(a) Definitions. The following definitions shall apply to all portions of the Town Code relating to the public beaches, primary dunes and frontal dunes within the Town:

(1) *Adverse Impact* means anything that would destroy, harm, impair, diminish, or degrade the value or integrity of a sand dune for storm protection or wildlife habitat.

(2) *Beach* means the lands consisting of unconsolidated soil materials that extend for a distance of 100 yards east of the mean low water mark into the Atlantic Ocean landward to a point where either the growth of stable natural vegetation occurs or a distinct change in slope or elevation alters the configuration, whichever is farther landward.

(3) *Dune System, Frontal Dune* is the first mound of sand located landward of the beach having sufficient vegetation, height, continuity, and configuration to offer protective value.

(4) *Dune System, Primary Dune* is the first mounds of sand located landward of the beach having an elevation equal to the mean flood level for the area plus six feet. The primary dune extends landward to the lowest elevation in the depression behind the same mound of sand.

(5) *Dune Walkover Access, Improved* is a raised walkway constructed for the purpose of providing access to the beach from points landward of the dune system.

(6) *Dune Walkover Access, Unimproved* is a sand walkway or path used for the purposes of providing pedestrian access to the beach which is located in an area where there is no escarpment present between the dune structure and the beach.

(7) *Escarpment* is the vertical drop or steep slope in the beach profile separating 2 comparatively level or more gentle sloping surfaces caused from high tide or storm tide erosion. Escarpments for the purposes of this chapter shall only be determined to exist in areas where the height and slope of the escarpment would preclude reasonable pedestrian access to the beach without causing an adverse impact to the dune structure.

(8) *Tent* is portable shelter supported by a framework of multiple poles.

(b) Beach and Dune Protection. The following activities shall be considered unlawful on the beach, as defined in Section 34-55 (a):

(1) Erection of a tent, cabana, or umbrella which, in the opinion of Public Safety personnel:

(a) Prevents or disrupts the passage of emergency or ocean rescue vehicles; or

(b) Hampers the ability to provide adequate ocean rescue service by obstructing the line of sight to the water from lifeguard stands or other surveillance areas.

(2) Leaving unattended personal articles on the beach between the hours of sunset and sunrise. These items may include, but shall not be limited to, volleyball nets, badminton nets, poles, tents, chairs, cabanas, sunshades, horseshoe stakes, croquet courses, umbrellas or any other personal property items;

(3) Substantially altering the contour or shape of the flat beach area by excessive digging or mounding of sand that:

(a) In the opinion of Public Safety personnel, such alteration presents a present, dangerous condition; or

(b) Is left unattended for any period of time without restoring the beach to its original condition.

(c) The following activities shall be considered unlawful within the dune system:

(1) Walking or traversing on the dunes outside of an improved or unimproved dune walkover access as defined in Section 34-55 (a);

(2) Degrading, disturbing, or compromising the integrity of the dune structure. These prohibited activities include, but shall not be limited to:

(a) Digging, shelling, mining, or mechanical alteration of the dune topography;

(b) Playing, sliding, climbing, or rappelling on the frontal or primary dune or the dune escarpment; and

(c) Discharging water into the dune where it will cause significant scouring or erosion or otherwise affect the integrity of the dune.

(3) Development activities without a valid building permit, Health Department approval, or CAMA authorization;

(4) Littering.

(d) Exemptions. This section shall not apply to the following activities:

(a) Development activities authorized or permitted by the Town, the Dare County Department of Environmental Health, or CAMA;

(b) Dune or property maintenance activities including planting or fertilization of vegetation, sand fence installation, minor dune repairs, and removal of litter or debris;

(c) Federal, State, and Local officials engaged in official regulatory activities; and;

(d) Persons engaged in research, conservation, or extension activities as authorized by the Town Manager.

ARTICLE IV. Severability.

All Ordinances or parts of Ordinances in conflict with this Ordinance are hereby repealed. Should a court of competent jurisdiction declare this Ordinance or any part thereof to be invalid, such decision shall not affect the remaining provisions of this Ordinance nor the Zoning Ordinance of the Town of Southern Shores, North Carolina which shall remain in full force and effect.

ARTICLE V. Effective Date.

This ordinance shall be in full force and effective from and after the 20th day of April, 2010.

Mayor

ATTEST:

Town Clerk

Date: 4 / 20 / 2010

Vote: 4 Ayes 0 Nays

Approved as to form:

Town Attorney

Exhibit C

TOWN OF SOUTHERN SHORES

On the matter of filling vacancies on Town Council by popular vote.

On or about Mar 16, 2010, my wife took a call from Ms. Lonna Halacy, Legislative Assistant to State Representative Tim Spear. I returned the call later that day, or the next.

Ms. Halacy advised me that they were holding a letter from then Mayor Don Smith, dated August 5, 2009, asking that Rep. Spear ask the Legislature, at its next session (short), for a revision to the Southern Shores Charter to provide that vacancies on the Town Council be filled through special elections, vice appointments. She asked that I forward the resolution supporting that request; without the resolution they could not go forward.

I took the matter to the Town Clerk, Carrie Gordon. She advised that there was no resolution. In checking through Council Minutes, the following was found in the minutes of the August 2009 Council Meeting: "Mayor Smith stated he had heard from Representative Spear's office regarding the special election request Council submitted to the legislators. He asked if the Town should adopt a resolution to submit the local act request and he was told to wait until March when Rep. Spear would be preparing items for the short session which begins in May."

I then called Ms. Halacy and advised her that a resolution had not been drawn. She reiterated that the matter could not go forward without one. She also reminded me that only non-controversial matters could go forward in the short session of the Legislature. I told her that if the matter was brought to the current Town Council with the purpose of passing a resolution, it surely would become controversial because I strongly opposed the shift to special elections. I also told her that I believed there might be other members of Council who would oppose.

That was my last contact with Rep. Spears' office on the matter.

On Tuesday, April 6, while meeting with Interim Town Manager, David Kole, to review the Council Book for that night's meeting, I advised him that I would be briefing Council on the above during my Mayor Remarks. I had no knowledge of any recent exchange between Don Smith and Rep. Spear until it surfaced after my remarks at that meeting.

Hal Denny
7 April 2010

Exhibit D

**Town of Southern Shores
Budget Amendment Number # 17**

Administration Increases			Administration Decreases		
<u>Account Number</u>	<u>Description</u>	<u>Amount</u>	<u>Account Number</u>	<u>Description</u>	<u>Amount</u>
40-39909	<u>Revenues</u> Undesignated FB	\$20,000.00			
42-50124	<u>Expenditures</u> Computer Services	\$20,000.00			

Explanation: To cover costs of upgrading server, Email backup and computer software and 2 work stations

Recommended By:

David Kole, Interim Town Manager

Approved By:

Hal Denny, Mayor

Date

Town of Southern Shores, NC
Council Meeting
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